

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

ORIGINAL

UNITED STATES DISTRICT COURT

DEC 10 2007

DISTRICT OF HAWAII

at 11 o'clock and 35 min. A.M.
SUE BEITIA, CLERK

UNITED STATES OF AMERICA,

Civil No. _____

Plaintiff,

Case No. 1:02-CR-00341-HW-03

vs.

ROBERT R. MALDONADO, JR.

Defendant.

Motion To Correct An Illegal Sentence

Pursuant To Title 28 United States Code Section 2255

Now Comes; defendant Maldonado with this request for the Honorable Court to Correct An Illegal Sentence via 28 U.S.C. § 2255 on the following claims.

"CLAIM ONE"

Defendant Maldonado was denied effective counsel at trial, sentencing and on direct appeal, as defined by The United States Supreme Court's dicta and holding in Cite: Paul Glover vs. United States, 148 L.Ed.2d 604 (2001).

Ineffective counsel failed to address on direct appeal all Sentencing Guideline Misapplications as this is the exclusive avenue in which a court may inquire on these claims.

AN "EVIDENTIARY HEARING" is requested to expand the record on these sentencing guideline claims as defendant Maldonado does not have access to the Presentence Report and its point adjustments to properly address.

NOTICE: The Prison does not allow any prisoner to maintain the Presentence Report to enable defendant to properly address any sentencing guideline issue.

Will this court appointed counsel on this issue to protect defendant's due lprocess rights?

"CLAIM TWO"

Defendant Maldonado was denied due process when the court accepted his guilty plea under Federal Rule Criminal Procedure 11(f) as follows:

- 1) The drug amount pled too by defendant was illegally enhanced after the court accepted his guilty plea.
- 2) The court allowed the Presentence Report to upward depart defendant's sentence after the guilty plea was accepted by all parties by using prior convictions [not pled too] to enhance this sentence.
- 3) Defendant was not on actual notice of the actual sentence he would receive by pleaing guilty as he was sandbagged by the government.

"CLAIM THREE"

Pursuant to United States Sentencing Guideline Amendment #484
.... States: the mixture or substance must be separated
before the court can find the proper [actual] amount of
useable drugs before the court can determine the sentence.

1) Wherefore; the court must correct this federal sentence
to reflect the proper sentence, based on Amendment #484 that
is retroactive.

"CLAIM FOUR"

Defendant request the court to order his court appointed
attorney to forthwith send any and all records to Maldonado,
to enable defendant to present all claims on this 28 United
States Code Section 2255 as defendant will file an
amended petition via Federal Rule Civil Procedure 15(c)(2) to
protect his rights.

Wherefore; will this court hereby grant defendant's request
and correct this illegal sentence as presented?

Signed, dated and mailed
under oath and affidavit
by placing into the Prison
Mail Box Rule April 1st, 2007

Respectfully Submitted;

A handwritten signature in cursive script that reads "Robert R. Maldonado, Jr.".

Robert R. Maldonado, Jr.

37601-048

USP Victorville

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